IN THE HIGH COURT OF JUDICATUE FOR RAJASTHAN
AT JODHPUR

O R D E R

Hari Prasad & Anr. Vs. State & Ors.

S.B.Civil Writ Petition No.4158/2005
Under Article 226 of the Constitution of India.

Date of Order : 1st May, 2006

PRESENT
HON'BLE SHRI N.P.GUPTA,J.

Mr.Kuldeep Mathur, for the petitioner.
Mr.B.L.Bhati, Dy.G.A., for the respondents.

BY THE COURT:

The two petitioners, by this petition, seek direction to the respondent Institute to accept the application forms of the petitioners, to grant admission to them in the two years "in service" BSTC Correspondence Course.

The facts alleged are, that the petitioners were appointed as Shiksha Sahayogi in the Rajiv Gandhi Swaran Jayanti Pathshala, in District Barmer. Subsequently the State floated the scheme to train the untrained teachers, including like the petitioners (Shiksha Sahayogi), under a self finance correspondence course, in the year 2002, and on the

same pattern, issued guidelines to start correspondence course for the year 2005-2007. Documents in regard to floating of this correspondence scheme have been produced as Annexure-1. It is alleged, that the petitioners possess the minimum qualification of Secondary School Examination, having been passed from the Board of Secondary Education, Ajmer. It is alleged that on coming to know of the correspondence course scheme, the petitioners obtained application forms, and submitted the same duly filled in with affidavits and requisite demand drafts. On 9.6.2005 the Block Elementary Officer, Panchayat Samiti and District Education Officer, Elementary Education forwarded the same. The letter of the Blok Elemenary Officer has been produced as Annexure 5 and 6. It is then alleged, that the petitioners were selected as Para Teachers in the year 2000, and were appointed as Shiksha Sahayogis, and their services were sought to be discontinued in the year 2002, which was challenged by way of Writ Petition No. 2263 and 2269 of 2002, wherein, this Court vide order dt. 12.7.2002, stayed the termination. Those writ petitions are said to be pending. It is alleged that on 25.6.2005 the petitioners submitted the forms to the respondent Institute, but the respondent no.3 orally refused to accept the form, on the ground, that they are continuing as Shiksha Sahayogis, under the interim order of this Court, and therefore, they

cannot be treated eligible for correspondence course. Thereupon the petitioners contacted the advocate, and then on 27.6.2005 got served a notice for demand of justice, but to no good. With these facts, the above reliefs have been claimed.

A reply has been filed, wherein all that has been contended is, that apart from Secondary School Examination, a candidate is required to possess Senior Secondary. Then, other contention raised is, that the petitioners did not apply on 25.6.2005, as there is nothing to show, that they had applied on or before that cut off date, as such there is no question of refusal to give admission. It was maintained, that since the petitioners have not applied, they are not entitled for admission.

During course of hearing, this very stand was maintained.

A look at documents annexed with the writ petition, including Annexure-3 and 4, shows that both the petitioners do possess the academic qualification of Secondary School Examination, so also Sr. Secondary Examination, and claim to have passed Secondary School Examination with three subjects, Hindi, English, and Elementary Maths. Thus, so far academic qualification is concerned, it does not appear that they are

lacking. So far the stand about the petitioners not having applied on 25.6.2005 is concerned, it is alleged by the petitioners in para-10, that they got served notice by way of demand of justice on 27.6.2005, and this claim of the petitioners has not been controverted in the reply. A look at notice Annexure-7 and 8 shows, that it is clearly alleged therein, that the application forms were submitted on 10.6.2005, but they were not accepted.

Thus, in my view, it does appear, that the petitioners' forms were not accepted, only because they were continuing as Shiksha Sahayogi, under the interim orders of this Court dt. 12.7.2002, passed in their respective writ petitions, which obviously could not be a ground to refuse to grant admission.

Accordingly, the writ petition is allowed. Since the petitioners have been granted provisional admission under the orders of this Court dt. 15.7.2005, it is directed, that the respondents should examine the eligibility of the petitioners to take admission in the course, on the aspect of their possessing academic qualification, and treating them to be "in service" as Shiksha Sahayogi, even if they continued under the interim orders of this Court, and on such consideration, if they are found eligible, they shall be allowed to continue, to complete the

course. However, if for any other reason, the respondents feel, that the petitioners are not eligible to take admission, a proper opportunity of hearing should be granted to the petitioners, and a detailed speaking order shall be passed in that regard. It is further directed, that in the event of any orders being passed against the petitioners, a copy of that order shall be made available to the petitioners forthwith, and such order shall not be given effect to for a period of 10 days, since the date of receipt of copy of the order, by the petitioners. The parties shall bear their own costs.

(N.P.GUPTA), J.